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FILED
JAN 30 2012

DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of)
13 CARMEN ADRIANA MORENO) NO. H-4275 SD
14 and ROD A. VILLA,) ACCUSATION
15 Respondents.)
16 _____)

17 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
18 of the State of California ("Complainant"), for Accusation against Respondents CARMEN
19 ADRIANA MORENO, ("MORENO"), and ROD A. VILLA, ("VILLA"), (collectively
20 "Respondents"), is informed and alleges as follows:

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22 Complainant makes this Accusation against Respondents in her official capacity.

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24 At all times mentioned, MORENO was licensed by the State of California
25 Department of Real Estate ("the Department") as a real estate salesperson employed by VILLA.

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2 At all times mentioned, VILLA was and now is licensed by the Department as a
3 real estate broker.

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5 At all times mentioned, Respondents engaged in the business of, acted in the
6 capacity of, advertised or assumed to act as a real estate broker in the State of California within
7 the meaning of Section 10131(d) of the California Business and Professions Code (performing
8 services for borrowers and/or lenders in connection with loans secured by real property), ("the
9 Code"), including performing services for one or more borrowers and negotiated to do one or
10 more of the following acts for another or others, for or in expectation of compensation: negotiate
11 one or more loans for, or perform services for, borrowers and/or lenders with respect to the
12 collection of advance fees and loan modification, loan refinance, principal reduction, foreclosure
13 abatement or short sale services and/or those borrowers' lenders in connection with loans secured
14 directly or collaterally by one or more liens on real property; and charged, demanded or collected
15 an advance fee for any of the services offered.

16 FIRST CAUSE OF ACTION

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18 In connection with the activities described in Paragraph 4, above, Respondents
19 collected advance fees within the meaning of Sections 10026 and 10131.2 ("advance fee") of the
20 Code in exchange for providing loan modification services, including, but not limited to, the acts
21 described in Paragraph 6, below.

22 6

23 On or about February 2, 2009, MORENO, while acting in the employ of VILLA,
24 entered into an agreement to provide loan modification services for Teresa L. on her property
25 located at 2428 Seawind Avenue, National City, California, for a fee of \$1,500. At that time,
26 MORENO assured Teresa L. that MORENO could negotiate a loan modification on Teresa L.'s

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1 behalf and instructed Teresa L. to stop making mortgage payments on her property. On that same
2 day, Teresa L. paid an advance fee of \$500.00 to MORENO for the loan modification services.

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4 VILLA was aware of MORENO's loan modification and advance fee activities
5 while MORENO was employed under VILLA's real estate broker license.

6 8

7 After receiving advance fee payments from Teresa L., MORENO failed to obtain
8 loan modifications for Teresa L. and did not repay the advance fees received from her.
9 MORENO's failure to provide the services promised or to refund the borrowers' funds
10 constitutes dishonest dealing.

11 9

12 The acts and/or omissions by MORENO as alleged in Paragraphs 6 through 8,
13 above, violate Sections 10085.5 (failure to comply with advance fees collection regulations) and
14 10085.6 (collection of advance fees prior to performance of services) of the Code, and are
15 grounds for the revocation or suspension of Respondents' real estate licenses or license rights
16 under Sections 10176(a) (making substantial misrepresentation), 10176(b) making false promises
17 likely to influence, persuade or induce), 10177(d) (willful disregard of real estate law), and
18 10177(j) (fraud or dishonest dealing) or 10177(g) (negligence) of the Code.

19 SECOND CAUSE OF ACTION

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21 MORENO failed to provide Teresa L. with a copy of the loan modification
22 services agreement discussed in Paragraph 6, above.

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24 The acts and/or omissions by MORENO as alleged in Paragraph 10, above,
25 violate Section 10142 (delivery of services agreement), and are grounds for the revocation or
26 suspension of MORENO's real estate licenses or license rights under Sections 10177(d), and
27 10177(j) or 10177(g) of the Code.

1 THIRD CAUSE OF ACTION

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3 In connection with the collection and handling of advance fees as alleged in
4 Paragraph 6, above, Respondents failed to submit the advance fee contract and all materials used
5 in obtaining those advance fee agreements to the Department of Real Estate for approval prior to
6 their use in obtaining advance fees.

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8 The acts and/or omissions of Respondents described in Paragraph 12, above,
9 violate Sections 10085.5, 10085.6 and 10177(d) in conjunction with Section 10085 (advance fee
10 agreements and materials) of the Code, and Sections 2970 (submission of advance fee
11 agreements and materials) and 2972 (content requirements of verified accounting) of Title 10,
12 Chapter 6, California Code of Regulations ("the Regulations"), and are grounds for the
13 suspension or revocation of Respondents' licenses and license rights under Sections 10177(d),
14 and 10177(j) or 10177(g) of the Code.

15 FOURTH CAUSE OF ACTION

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17 At all time relevant herein, VILLA did not maintain a bank account designated as
18 a trust account as part of his real estate business. On or about February 5, 2009, VILLA
19 deposited the advance fee payment received by MORENO from Teresa L. into his non-trust
20 business account.

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22 The acts and/or omissions of VILLA described in Paragraph 14, above, violate
23 Sections 10146 (deposit of advance fees into trust account), 10176(e) (commingling) of the
24 Code, and Sections 2970 and 2832 (trust fund handling) of the Regulations, and are grounds for
25 the suspension or revocation of VILLA's licenses and license rights under Sections 10177(d),
26 and 10177(j) or 10177(g) of the Code.

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1 FIFTH CAUSE OF ACTION

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3 At all times mentioned, VILLA failed to exercise reasonable supervision over the
4 acts of his agents and employees in such a manner as to allow the acts and omissions as set forth
5 in Paragraphs 6 through 11 above, to occur.

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7 The acts and/or omissions by VILLA as alleged in Paragraph 16, above, violate
8 Section 10159.2 (supervision responsibility of designated broker/officer) of the Code and Section
9 2725 (reasonable supervision by broker) of the Regulations, and are grounds for the suspension
10 or revocation of the license or license rights of VILLA under Sections 10177(d), 10177(j) or
11 10177(g), and 10177(h) (reasonable supervision by broker) of the Code.

12 SIXTH CAUSE OF ACTION

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14 On or about June 18, 2009, VILLA terminated the employment of MORENO.
15 However, VILLA failed to notify the Department of that action.

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17 The acts and/or omissions of VILLA as alleged in Paragraph 18, above, violate
18 Section 10178 (reporting by broker of discharge of salesperson) of the Code, and are grounds for
19 the suspension or revocation of the license or license rights of VILLA under Sections 10177(d),
20 and 10177(j) or 10177(g) of the Code.

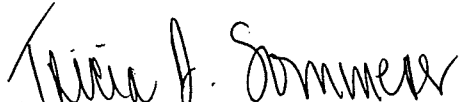
21 COST RECOVERY

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23 Section 10106 of the Code provides, in pertinent part, that in any order issued in
24 resolution of a disciplinary proceeding before the department, the commissioner may request the
25 administrative law judge to direct a licensee found to have committed a violation of this part to
26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 WHEREFORE, Complainant prays that a hearing be conducted on the
2 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
3 disciplinary action against all licenses and license rights of Respondents under the Code, for the
4 reasonable cost of investigation and prosecution of this case, including agency attorney's fees,
5 and for such other and further relief as may be proper under other provisions of law.
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8 TRICIA D. SOMMERS
9 Deputy Real Estate Commissioner

10 Dated at Sacramento, California,
11 this 30th day of January, 2012.
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